Remarks/Arguments:

Claims 1-33 are pending in the application, and claims 21-27 are withdrawn from consideration. The claims are not amended herewith, but are included for the Examiner's convenience.

Claims 1-20 and 30-33 are rejected under 35 USC § 103(a) as unpatentable over WO 01/92000 A1 ("Lin") in view of U.S. 4,515,841 ("Dyke") and further in view of U.S. 6,682,792 ("Schmal"). Schmal is relied upon to teach the use of biaxially oriented films.

The Examiner admits that Lin does not explicitly teach the use of a water soluble material for layer 16, but considers that it would have been obvious to use a water soluble material such as taught by Dyke for Lin's sealing layer 16. The Examiner does not dispute that making layer 16 from a water soluble material would make water repellency unachievable, and would make and resealability upon cooling unachievable, but contends that these features are not essential to Lin's invention. Lin, however, states otherwise.

Regarding water repelling or waterproofing, Lin states the following.

"The sealing layer ... provides the air permeable composite film with water repelling abilities ...".[1]

"In order to seal the gaps so as to provide the air permeable packaging bag with water repelling abilities ... a sealing layer is formed on the surface of the folded polymer layer."[2]

"The sealing layer 16 provides the structure 102 with waterproofing abilities, and better thermal insulating properties."[3]

The sealing layer 16 keeps the gaps 15 both sealed and air impermeable, and provides the structure 102 with water repelling abilities ...".[4]

"In the preferred embodiment, Paraffin is used due to its superior water repelling characteristics, and because of its vapor permeability."[5]

Regarding resealability, Lin states as follows.

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[1] Lin page 4 lines 11-13
[2] Lin page 5 lines 1-5
[3] Lin page 10 lines 20-31
[4] Lin page 10 line 31 to page 11 line 1
[5] Lin page 12 lines 5-7

"On the other hand, when the heating source is removed, the temperature of the composite film structure 102 decreases and the sealing layer 16 regains its sealing abilities."[6]

"In addition, cooked food packed in the sealed packaging bag can be frozen or heated repeatedly without impairing the taste of the food, as the structure of the air permeable packaging bag can be restored to its original condition."[7]

After the sterilization process, the temperature of the packaging bag returns to room temperature. The molten sealing material solidifies and re-seals the gaps while the temperature decreases. The sealing abilities of the sealing material returns."[8]

"... on the other hand, when the heating source is removed, the temperature of the composite film decreases and the sealing ability of the sealing layer is restored."[9]

The Examiner states that "The essential feature of Lin is that the sealing film and substrate vent when exposed to steam during cooking."[10] This is incorrect. Lin does not teach that steam exposure causes venting. Rather, Lin teaches that increases in pressure and temperature are the cause, saying that "When the composite film structure 102 comes into contact with hot air, the heat of the hot air will degrade the sealing ability of the sealing layer 16, opening the pseudo-closed tiny gaps 15 ...".[11] (emphasis added) Then, "... when the heating source is removed, the temperature ... decreases and the sealing layer 16 regains its sealing abilities."[12] (emphasis added)

The Examiner appears to be of the view that because venting during microwave cooking is an essential feature of Lin's structure, the other essential features of water-repellency and resealing upon cooling are unimportant to Lin's invention and that any structure that provides venting (alone) would have been obvious, even if it fails to provide those other essential features. Applicants respectfully note that it is not obvious to modify a reference in a way that destroys any essential feature. In this case, one essential feature is that "when the heating source is removed, the temperature ... decreases and the sealing layer 16 regains its sealing abilities". But using a water-soluble material in Lin's sealing

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[6] Lin page 11 lines 23-25
[7] Lin page 14 lines 29-33
[8] Lin page 15 lines 27 to 31
[9] Lin claim 1 lines 16-19
[10] Office Action page 4 at point 5
[11] Lin page 11 lines 16-18
[12] Lin page 11 lines 23-25

layer 16 would not provide this feature, and it would therefore not have been obvious to do so.

The Examiner admits that Lin does not explicitly teach water soluble materials for layer 16, but proposes the following indirect proof that this feature is implied or inherent.

1) Some members of the general classes of materials that Lin uses for layer 16 are not "water resistant"[13] (a term that neither Lin nor the Examiner defines).

2) Therefore water resistance is merely optional for Lin's purposes.

3) Therefore Lin's layer 16 must sometimes be water soluble.

Applicants respectfully point out that this logic is flawed, and disagree that Lin teaches a water-soluble layer implicitly or inherently. To begin with, Applicants' claims recite a water soluble layer, not a water resistant layer, and therefore any remarks regarding the latter are not relevant to the claims under examination.

Secondly, point 2) does not follow from point 1) for at least the reason that Lin has clearly stated that layer 16 is water repellent. Although Lin discloses certain classes of compounds from which the material of layer 16 can be selected, he does not state that all compounds from those classes are suitable, and the skilled artisan easily understands that the materials for layer 16 must meet the other requirements of the invention. One of those explicitly required features is water repellency, as explained earlier above, and the skilled person would have selected water repellent materials from the list provided. Water repellency is a necessary property, not optional as the Examiner asserts, and a water soluble material as currently claimed cannot meet this water repellency requirement. Therefore, using a water soluble material for layer 16 would have rendered Lin's invention unsatisfactory for its intended purpose, and thus substituting a water soluble layer for Lin's water repellent layer would not have been obvious[14].

The Examiner states that EP 1086809 (Abstract) teaches the use of water soluble films that can be resealed, but Applicants respectfully note that the resealing is via

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[13] Office Action page 4 point 5: "... all of the materials [starch, fatty acids and surfactants] would be known to one of ordinary skill in the art as not always being water resistant." Applicants presume that the Examiner is referring to water repellency, which Lin does mention repeatedly as discussed above.

[14] If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)

rewetting, not by cooling and re-solidifying as required by Lin. Modifying Lin's device to use a water-soluble layer 16 would also result in loss of the essential feature of being able to reseal upon cooling. Use of such a layer would therefore render Lin's packaging unsuitable for its intended purpose in this additional respect, and thus would not have been obvious that the time the invention was made. For this additional reason, the rejection should be withdrawn.

Applicants respectfully request reconsideration and allowance of the pending claims, and invite the Examiner to contact their representative, Frank Tise, if it appears that this may expedite examination.

Respectfully submitted,

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Enclosure:

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